

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Alexis Environmental Co., Inc.
219 Glider Circle
Corona, California 92880

EPA ID No. CAR000130864

Respondent.

Docket HWCA 2007 – 1578

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Alexis Environmental Co., Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste based out of the following site:
219 Glider Circle, Corona, California 92880 (Site).
2. The Department inspected the Site on December 6, 8, 12 and 21, 2006, February 2, 2007 and August 8, 2007.
3. The Department alleges the following violations:
 - 3.1. The Respondent violated Health and Safety Code section 25201, subsection (a), in that on or about August 13, 24, September 1, 9, 27, and October 4, 13 and 21, 2005, Respondent transferred hazardous waste without a permit or other grant of authorization from the Department, to wit: On approximately 31 occasions, Respondent transferred hazardous waste used oil from its tanker truck to tank trailers owned and/or operated by Transtitan LLC, at the Site, a point which is not authorized by the Department.

3.2. The Respondent violated Health and Safety Code section 25201, subsection (a), in that on or about December 6, 2006, Respondent stored hazardous waste at the Site without authorization from the Department, to wit: Respondent failed to meet the conditions set forth in California Code of Regulations, title 22, section 66263.18 (Section 66263.18) in that it stored containers of hazardous waste at the Site for greater than ten (10) days. Failure to comply with Section 66263.18 subjects Respondent to the storage requirements pursuant to Health and Safety Code section 25201, subsection (a).

3.3. The Respondent violated Health and Safety Code section 25189.2, subsection (a) in that on or about August 13, 24, September 1, 9, 27, October 4, 13 and 21, 2005, Respondent falsified information on manifests, to wit:

- a) The 31 manifests that represent waste oil transferred from Respondent's tanker into a Transtitan tank trailer at the Respondent's Site were dated differently than the dates on the corresponding receipts.
- b) The volumes listed on manifests 23845759, 23845786, 23845804, 23845823 were physically crossed out and different volumes inserted in their place.
- c) Manifests 25286411 and 25144338 incorrectly identified Respondent as the generator.
- d) The dates written on approximately 27 out of 30 manifests (90 percent) from 2005 were different than the dates written on the corresponding receipts.

3.4. The Respondent violated California Code of Regulations, title 22, section 66262.42, in that on or about September 28, 2005 through December 5, 2005, it failed to file an Exception Report within 45 days after initiating a shipment of hazardous waste and not receiving the signed copy back from the designated facility, to wit: There were no signed/dated Treatment, Storage and/or Disposal Facility (TSDF) copies or Exception Reports for the 31 manifests (representing the used oil that was illegally transferred in Paragraph 2.1.) in the Hazardous Waste

Tracking System manifest database maintained by DTSC, nor could the signed TSDF copies be produced by Respondent at the time DTSC initially requested this information.

3.5. The Respondent violated Health and Safety Code section 25160 (b) in that it did not comply with the consolidated manifest conditions set forth in Health and Safety Code section 25160.2 (b) and (d), to wit: beginning October 31, 2002 for the period July through September 2002, and every three months thereafter, Respondent failed to submit Transporter Quarterly Reports as required for all consolidated transporters. Since Respondent became registered as a consolidated transporter in October 2003, it has failed to submit approximately twelve Transporter Quarterly Reports.

Further, the Respondent failed to follow consolidated manifesting procedures in that of the approximately 60 manifest/receipt packages that were reviewed at the Respondent's office, none had a complete set of receipts whose volumes added up to the volume on the manifest, in addition to being affixed to each consolidated load manifest. The dates on the manifests were not the same dates as those on the receipts. The completed receipts were missing some of the required information, including the EPA identification number, contact person, and telephone number of the generator.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

8. Respondent admits the violations alleged above.

SCHEDULE FOR COMPLIANCE

9. Respondent has corrected the violations alleged above.

10. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Richard L. Jones
Senior Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

10.1. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.2. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.3. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.4. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued

in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.5. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.6. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.7. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this

Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Respondent shall pay the Department a total penalty of \$17,544. Respondent shall make an initial payment of \$5,000 by August 15, 2008. The remaining penalty, provided the conditions in Paragraph 11.1 below are fulfilled, shall be paid in three (3) installments, as follows: The first installment in the amount of \$4,181 is due and payable on or before November 15, 2008. The second installment in the amount of \$4,181 is due and payable on or before February 15, 2009. The third installment in the amount of \$4,182 is due and payable on or before May 15, 2009. In the event that any payment is not received by the dates specified above, the entire remaining balance shall become due and payable immediately. Respondent's check shall be made payable to Department of Toxic Substances Control and shall note the Docket Number of this case (HWCA 2007 – 1578) on the face of the check, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

To: Carmelita Lampino, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630-4732

To: Debra Schwartz, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

To: Richard L. Jones, Senior Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

11.1. Respondent hereby agrees to send an employee to the California Compliance School (Modules I through V). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 185 days of the effective date of this Consent Order. In recognition of this educational investment, the administrative penalty imposed by this Consent Order has been reduced by \$5,000 provided that the employee satisfactorily completes the specified modules and the Department receives the Certificate of Satisfactory Completion within 185 days of the effective date of this Consent Order. If Respondent fails to submit the certificate as required, the administrative penalty of \$5,000.00 is due and payable within 30 days after the 185-day period expires. The 185-day period may be extended by the Department upon a written request demonstrating good cause from Respondent.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: August 7, 2008 Original signed by Mark Leara

Mark Leara, President
Alexis Environmental Co., Inc.

Dated: August 12, 2008 Original signed by Richard L. Jones

Richard L. Jones
Senior Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control